

Registration, Enforcement and Discharge of Local Authority Charges on Land, Regulations

Contents

1.	Notice to registered proprietor	1
2.	Application for registration at charge	2
3.	Registration of charge	3
4.	Notice of dispute	4
5.	Magistrates certificate	6
6.	Application for registration	6
7.	Charge remains in force until discharged	7
8.	Memorandum of satisfaction of charge	8
9.	Application to discharge	8
10.	Order for sale of land	9
11.	Registration of order for sale	12
12.	Sale of land	13
13.	Manner of conducting sale	13
14.	Application of proceeds	13
15.	Warrant of possession	15
16.	Land may be offered for sale	15
17.	Duration of order for sale	15
18.	Charge and other rights not affected	16
19.	Conveyance or transfer	16
20.	Registration of transfer	16

Appendix

Notes

Compilation table	36
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Registration, Enforcement and Discharge of Local Authority Charges on Land, Regulations

Regulations relating to the registration, enforcement and discharge under Section 372 of the Act, of charges upon land of expenses incurred by local authorities.

[Preamble amended: Gazette 10 Jan 2017 p. 302.]

1. Notice to registered proprietor

- (1) Where the CEO or a local authority has incurred expenses in doing any act, matter or thing upon or in relation to any land or premises, which by the provisions of the Act are declared to be a charge upon such land or premises, and in accordance with Section 372 of the Act the CEO or the local authority desires to register such charge against such land or premises, the CEO or the local authority, as the case may be, shall serve upon the person who appears by the records of the Western Australian Land Information Authority established by the *Land Information Authority Act 2006* section 5 to be the registered proprietor of such land or premises a notice in writing in accordance with Form A in the Appendix to these regulations.
- (2) If the person upon whom notice is served as provided for in paragraph (1) hereof disputes the fact or the amount of the charge claimed or that the land or premises proposed to be charged is or are subject to the charge claimed or that he is liable to pay the amount of the expenses claimed, such person may within three days after the service upon him of the notice

r. 2

aforesaid, serve upon the CEO or the local authority, as the case may be, at his or its office notice in writing in accordance with Form B in the Appendix to these regulations setting forth the nature of the dispute, and requiring that such dispute shall be referred to a magistrate for determination in accordance with these regulations.

- (3) If a person after being served by the CEO or a local authority with a notice as provided for in paragraph (1) hereof fails within the time prescribed to serve the CEO or the local authority with a notice as provided for in paragraph (2) hereof such person shall be deemed to admit the right of the CEO or the local authority to the charge claimed in his or its said notice.
- (4) For the purpose of paragraph (1) of this regulation, service upon the registered proprietor of the land or premises shall be sufficient if the notice is sent to him by prepaid registered letter addressed to the address of such registered proprietor, if known, or, where his actual address is not known, addressed to his address appearing on the certificate or other instrument of title of the said land.

[Regulation 1 amended: Gazette 29 Dec 2006 p. 5906 and 5910.]

2. Application for registration at charge

- (1) Where the CEO or a local authority has served notice under paragraph (1) of the next preceding regulation upon the registered proprietor of the land or premises described in the notice, and such registered proprietor has failed within the prescribed time to serve upon the CEO or the local authority, as the case may be, notice of dispute as provided for in paragraph (2) of the said next preceding regulation, the CEO or the local authority may at any time thereafter make application in writing in accordance with Form C in the Appendix to these regulations to the Registrar of Titles or the Registrar of Deeds and Transfers, as the case may require, for registration of the charge claimed against the land of such registered proprietor.

- (2) Such application shall be accompanied by —
- (a) A statutory declaration by the clerk to the CEO or the clerk or secretary of the local authority verifying a copy of the notice served by the CEO or the local authority as aforesaid, and of the service of such notice upon the person to whom such notice was directed, and of the failure of such person to serve upon the CEO or the local authority a notice of dispute as aforesaid within the time prescribed by paragraph (2) of Regulation 1 of these regulations;
 - (b) a certificate under the hand of such clerk to the CEO or such clerk or secretary of the local authority in accordance with Form D in the Appendix to these regulations stating the amount of the charged claim, the land and premises subject to such charge, and the person liable to pay the amount of such charge; and
 - (c) in case the land and premises to be charged are not under the *Transfer of Land Act 1893*, a memorial of the certificate referred to in subparagraph (b) of this paragraph for registration under the *Registration of Deeds Act 1856*.

[Regulation 2 amended: Gazette 29 Dec 2006 p. 5906 and 5910.]

3. Registration of charge

- (1) Upon receipt from the CEO or the local authority of an application to register a charge made in accordance with Regulation 2 of these regulations, the following provisions shall apply —
- (a) Where the land charged is under the *Transfer of Land Act 1893*, the Registrar of Titles shall, subject to payment of any prescribed fee, enter upon the records under his control relating to the land charged such memorandum or other record as shall be necessary to

r. 4

place on record the fact that the said land is charged as aforesaid; and

- (b) Where the land charged is not under either the *Transfer of Land Act 1893*, the Registrar of Deeds and Transfers shall, subject to payment of the prescribed fee, register in the Register of Deeds the memorial of the certificate referred to in subparagraph (c) of paragraph (2) of Regulation 2 of these regulations.
- (2) It shall not be necessary for the Registrar of Titles or the Registrar of Deeds and Transfers to call in the duplicate certificate or other instrument of title of the land charged when entering the Memorandum or record or registering the memorial as aforesaid; but when such memorandum or record has been entered or such memorial has been registered, the Registrar of Titles or the Registrar of Deeds and Transfers, as the case may require, shall cause notice of such entry or registration to be sent to the person whose name appears in the records as the registered proprietor of the land charged at his address appearing in such records. Such notice shall be in accordance with Form E in the Appendix to these regulations.

[Regulation 3 amended: Gazette 29 Dec 2006 p. 5906 and 5910.]

4. Notice of dispute

- (1) Where the CEO or a local authority has served notice under paragraph (1) of Regulation 1 of these regulations upon the registered proprietor of the land or premises described in the notice, and such registered proprietor serves upon the CEO or the local authority notice of dispute within the time prescribed by and in accordance with paragraph (2) of Regulation 1 of these regulations, the CEO or the local authority, as the case may be, shall within ten days after the receipt of such notice of dispute, refer such dispute for determination by the stipendiary or resident magistrate exercising jurisdiction in the Local Court held nearest to the place where the land or premises sought to be charged is situated.

- (2) Reference of a dispute to a magistrate as provided for in paragraph 1 of this regulation shall be made by the CEO or the local authority, as the case may be, leaving with the magistrate at his chambers notice in writing in accordance with Form F in the Appendix to these regulations, together with copies of the notice served upon the registered proprietor of the land or premises as aforesaid and of the notice of dispute served by such registered proprietor as aforesaid.
- (3) Upon receipt of the notice and documents mentioned in paragraph (2) of this regulation, the magistrate shall appoint a day and time for the hearing of the parties in relation to the dispute, and shall cause notice of such day and time to be sent to such parties. Such day and time shall not be less than seven days after the date of service of notice thereof upon the parties as aforesaid.
- (4) If either party neglect to appear personally or by counsel or solicitor on the date and at the time for hearing, and proof is made to the satisfaction of the magistrate that the said parties were duly served with notice of such hearing, the magistrate may —
 - (a) where the registered proprietor of the land or premises fails to appear, determine the dispute in favour of the CEO or local authority without any further hearing;
 - (b) where the CEO or the local authority, as the case may be, fails to appear, hear and determine the dispute, or adjourn the hearing of the same to some other date.
- (5) On the hearing and determination of the dispute the magistrate may make such order as to costs to be paid by either party to the other party as he may think just.
- (6) On the hearing of the dispute the CEO or the local authority, as the case may be, shall be heard first, as if he were a plaintiff in an action, and the hearing of the dispute shall proceed as nearly as may be according to the procedure and rules of evidence relating to a trial of an action in the Local Court.

r. 5

- (7) The Rules of the Local Court shall insofar as they are applicable and not inconsistent with these regulations, apply to the hearing and determination of disputes hereunder.

[Regulation 4 amended: Gazette 29 Dec 2006 p. 5910]

5. Magistrates certificate

Where upon the hearing of a dispute under and as provided for in Regulation 4 of these regulations, the magistrate determines the dispute in favour of the CEO or the local authority, the magistrate shall sign and deliver to the CEO or the local authority, as the case may be, a certificate of his determination in accordance with Form G in the Appendix to these regulations.

[Regulation 5 amended: Gazette 29 Dec 2006 p. 5910-11.]

6. Application for registration

- (1) After receipt of a certificate of determination from the magistrate as provided for in Regulation 5 of these regulations, the CEO or the local authority may at any time make application in writing in accordance with Form C in the Appendix to these regulations to the Registrar of Titles or the Registrar of Deeds and Transfers, as the case may require, for registration of the charge in accordance with the terms of the said certificate of determination.
- (2) Such application shall be accompanied by —
- (a) the certificate of determination received from the magistrate, as aforesaid; and
 - (b) in case the land and premises to be charged are not under the *Transfer of Land Act 1893*, a memorial of the said certificate of determination for registration under the *Registration of Deeds Act 1856*.
- (3) Upon receipt from the CEO or the local authority of an application to register a charge made in accordance with

paragraphs (1) and (2) of this regulation, the following provisions shall apply —

- (a) where the land charged is under the *Transfer of Land Act 1893*, the Registrar of Titles shall, subject to payment of any prescribed fee enter upon the records under his control relating to the land charged such memorandum or other record as shall be necessary to place on record the fact that the said land is charged in the manner and to the extent mentioned in the certificate of determination annexed to the said application; and
 - (b) where the land charged is not under either the *Transfer of Land Act 1893*, the Registrar of Deeds and Transfers shall, subject to payment of the prescribed fee, register under the *Registration of Deeds Act 1856* the said memorial of the said certificate of determination.
- (4) It shall not be necessary for the Registrar of Titles or the Registrar of Deeds and Transfers to call in the duplicate certificate or other instrument of title of the land charged when entering the memorandum or record or registering the memorial as aforesaid; but when such memorandum or record has been entered or such memorial has been registered the Registrar of Titles or the Registrar of Deeds and Transfers, as the case may require, shall cause notice of such entry or registration to be sent to the person whose name appears in the records as the registered proprietor of the land charged at his address appearing in such records. Such notice shall be in accordance with Form E in the Appendix to these regulations.

[Regulation 6 amended: Gazette 29 Dec 2006 p. 5907 and 5910-11.]

7. Charge remains in force until dishcharged

Where under the provisions of section three hundred and seventy-two of the Act and in accordance with these regulations a charge has been registered against any land, such charge shall

continue to be registered against such land, until discharged in the manner hereinafter mentioned.

8. Memorandum of satisfaction of charge

When the amount of a charge, which has been registered against any land has been paid to the CEO or the local authority, as the case may be, entitled to such charge together with any costs ordered by the magistrate on the hearing and determination of any dispute as hereinbefore provided for, and together with the fees and expenses necessarily incurred by the CEO or the local authority in obtaining registration of the charge, the CEO or the local authority, as the case may be, shall sign and deliver to the person making such payment a memorandum of satisfaction in writing in accordance with Form H in the Appendix to these regulations.

[Regulation 8 amended: Gazette 29 Dec 2006 p. 5910-11]

9. Application to discharge

- (1) After receipt of a memorandum of satisfaction as provided for in Regulation 8 of these regulations, the registered proprietor of the land against which the charge is registered or any person acting on his behalf may make application in writing in accordance with Form I in the Appendix to these regulations to the Registrar of Titles or the Registrar of Deeds and Transfers, as the case may require, for the discharge of such charge from the said land.
- (2) Such application shall be accompanied by —
 - (a) the memorandum of satisfaction mentioned in the application; and
 - (b) in case the land against which the charge is registered is not under the *Transfer of Land Act 1893*, a memorial of the said memorandum of satisfaction for registration under the *Registration of Deeds Act 1856*.

- (3) Upon receipt of an application for discharge of a charge registered against land as provided for in paragraph (2) of this regulation, the following provisions shall apply: —
- (a) Where the land charged is under the *Transfer of Land Act 1893*, the Registrar of Titles shall, subject to payment of any prescribed fee, enter upon the records under his control relating to the land charged such memorandum or other record as shall be necessary to place on record the fact that the amount of the charge registered against such land has been paid and discharged in full and that the said land is no longer subject to the said charge; and
 - (b) where the land against which the charge is registered is not under the *Transfer of Land Act 1893*, the Registrar of Deeds and Transfers shall, subject to payment of any prescribed fee, register in the Registry of Deeds the said memorial of the said memorandum of satisfaction.

[Regulation 9 amended: Gazette 29 Dec 2006 p. 5907-8.]

10. Order for sale of land

When a charge has been registered against land as aforesaid, and thereafter the person liable to pay the amount of such charge fails or refuses after demand made to pay in full the amount of the said charge, together with any costs ordered by the magistrate on the hearing and determination of a dispute as hereinbefore provided for, and together with the fees and expenses necessarily incurred in obtaining the registration of such charge as aforesaid, the CEO or the local authority, as the case may be, entitled to such payment, if he or it desires to enforce the said charge against the said land, shall be bound by and comply with the following provisions: —

- (a) The CEO or the local authority, as the case may be, shall publish once in the *Government Gazette* and serve upon every person who appears from the records of the Western Australian Land Information Authority established by the *Land Information Authority Act 2006*

section 5 to be entitled to any estate or interest or mortgage or other security in or over the land charged, notice in writing in accordance with Form J in the Appendix to these regulations of intention on the part of the CEO or the local authority after the expiration of three months from the date of the publication in the *Government Gazette* as aforesaid or from the date of service of the notice upon the persons aforesaid, whichever of the said dates shall be the later, to apply to the stipendiary or resident magistrate exercising jurisdiction in the Local Court held nearest to the place where the land is situated for an order for the sale of the said land against which the charge to be enforced by such sale is registered as aforesaid.

- (b) If after publication and service of notice as provided for in paragraph (a) hereof and before application is made to the magistrate, the amount of the charge, together with the costs (if any) and the fees and expenses hereinbefore referred to are paid to the CEO or the local authority entitled to such payment, Regulations 8 and 9 of these regulations shall apply.
- (c) If after publication and service of notice as provided for in paragraph (a) hereof the amount of the charge, together with the costs (if any) and the fees and expenses hereinbefore referred to are not paid to the CEO or the local authority, as the case may be, entitled to such payment, then after the expiration of three months from the date of publication of the notice in the *Government Gazette* or the service of this notice as aforesaid, whichever date is the later, the CEO or the local authority, as the case may be, may apply to the stipendiary or resident magistrate exercising jurisdiction in the local court held nearest to the place where the land charged is situated for an order for sale of the land charged for the purpose of enforcing the charge.

- (d) Application to a magistrate for an order for sale of land as provided for in paragraph (c) hereof shall be in writing in accordance with Form K in the Appendix to these regulations and shall be given to the Clerk of the Court, and shall be accompanied by —
 - (i) an affidavit verifying the publication in the *Government Gazette* and service of notice of intention to make the application as hereinbefore provided for;
 - (ii) a certificate under the hand of the Registrar of Titles or the Registrar of Deeds and Transfers, as the case may require, that the charge mentioned in the application is registered against the land in respect whereof an order for sale is applied for; and
 - (iii) a certificate under the hand of the clerk to the CEO or the clerk or secretary of the local authority as the case may be, in accordance with Form L in the Appendix to these regulations stating the amount of the charge, and the costs (if any) and the fees and expenses payable to the CEO or the local authority under or in relation to the said charge.
- (e) Upon receipt of the application and affidavit therewith the clerk of the Local Court shall submit the same to the magistrate, and the magistrate may —
 - (i) make the order for sale as applied for forthwith without hearing the applicant; or
 - (ii) cause notice in writing to be sent to the applicant requiring him or it to attend before the magistrate on a date and at a time appointed in such notice to give further evidence in support of the application; and

- (iii) on the applicant appearing and giving such further evidence to the satisfaction of the magistrate, make the order for sale as applied for
- (iv) an order for sale made by the magistrate shall be in accordance with Form M in the Appendix to these regulations.

[Regulation 10 amended: Gazette 29 Dec 2006 p. 5908 and 5910]

11. Registration of order for sale

After an order for sale has been made no proceedings shall be taken thereunder until the following provisions have been complied with —

- (a) Where the land is under the *Transfer of Land Act 1893*, the applicant, in whose favour the order has been made, shall lodge with the Registrar of Titles an office copy of such order for sale for registration and the Registrar of Titles, subject to payment of the prescribed fee, shall and is hereby authorised to register such order, and to enter upon the records under his control relating to the land mentioned in the order such memorandum or record of such registration as may be necessary to show that the said order for sale has been registered against such land.
- (b) Where the land is not under the *Transfer of Land Act 1893*, the applicant, in whose favour the order has been made, shall lodge with the Registrar of Deeds and Transfers a memorial of the said order for sale, and, subject to payment of the prescribed fee, the Registrar shall register such memorial in the Register of Deeds.
- (c) After the registration of the order for sale as aforesaid the clerk of the Local Court shall prepare conditions of sale and the same shall be settled by the magistrate who made the order for sale; and a reserve may be fixed thereby.

[Regulation 11 amended: Gazette 29 Dec 2006 p. 5908.]

12. Sale of land

When conditions of sale have been settled by the magistrate as provided for in Regulation 11 hereof, the clerk of the Court shall, subject to payment by the applicant in whose favour the order for sale was made of such fees and charges as would be payable under the Rules of the Local Court if the said order were a warrant of execution issued by the Court under the said Rules of Court to be executed against land for the enforcement of a judgment of the Court, direct the bailiff of the Court to sell the land in respect of which the order for sale has been made under and in accordance with the said order for sale and the conditions of sale aforesaid.

13. Manner of conducting sale

Every sale of land under an order for sale made under these regulations shall be conducted by the bailiff in the same manner as sales of land under a warrant of execution issued out of the Local Court under the provisions of the *Local Courts Act 1911*, and the Rules of the Local Court made thereunder are conducted, and the provisions of the said Act and the said Rules of Court relating to the sale of land under warrant of execution issued under the said Act and Rules of Court shall, so far as the same can be made applicable, apply and be applied *mutatis mutandis* to sales of land conducted under an order for sale made under these regulations.

14. Application of proceeds

After land has been sold by the bailiff under an order for sale, the proceeds shall be paid into the Local Court, and shall be applied by the Clerk of the Court as follows: —

Firstly, in payment of the costs and expenses incurred by the applicant in obtaining and registering the order for sale, and the costs and expenses incurred in connection with the sale of the land.

Secondly, where the order for sale has been made in favour of the CEO, in payment of the amount payable under and in complete satisfaction of the charge for the enforcement whereof the order for sale was made *pari passu* with any land tax unpaid and payable at the time of the sale of the land.

Thirdly, in payment of all rates and taxes other than land tax and rates due to the local authority in whose favour the order for sale was made, when the order for sale has been made in favour of a local authority, unpaid and payable in respect of the land at the time of sale thereof.

Fourthly, where the order for sale has been made in favour of a local authority, in payment of the amount payable under and in complete satisfaction of the charge for the enforcement whereof the order for sale was made, *pari passu* with the rates (if any) unpaid and payable at the time of the sale to the local authority in whose favour the order for sale was made.

Fifthly, in payment of any balance of the amount payable under and in complete satisfaction of the charge, for the enforcement of which the order for sale was made, to the person in whose favour the said order was made.

Sixthly, in payment of any moneys due under any mortgage to the Agricultural Bank.²

Seventhly, in payment of all vendor's costs and expenses of and in connection with conferring upon the purchaser a clear title to the land.

Eighthly, in or towards the discharge of all or any other mortgages or mortgage or encumbrances or encumbrance proved to the satisfaction of the clerk of the Court to exist over the land, due regard being had to the respective priorities of any such mortgages or encumbrances.

Ninthly, in payment to the person who would but for the order for sale be entitled to the land, or if there are several persons who would be so entitled, then to such persons in the proportions in which they would be respectively so entitled: Provided that if any person is entitled to an estate in reversion or remainder in the said land the money may be paid into the Supreme Court under section forty-six of the *Trustees Act 1900*.³

[Regulation 14 amended: Gazette 29 Dec 2006 p. 5908.]

15. Warrant of possession

Any purchaser of land sold under an order for sale made under these regulations may apply for and obtain from the clerk of the Local Court a warrant of possession, which may be in the form of warrant of possession (Form 179) as prescribed in the schedule to the Rules of the Local Court with such modification as may be necessary; and the bailiff may put such purchaser in possession of the land thereunder.

16. Land may be offered for sale

Whilst the order for sale remains in force the land, in respect of which the order has been made, may be offered for sale thereunder in the manner herein directed as often as the magistrate who made the order shall think expedient.

17. Duration of order for sale

If the land is not sold, and, in the case of land under the *Transfer of Land Act 1893*, a transfer thereof is not registered within twelve months from the date of the order for sale, then the order and all proceedings founded thereon shall no longer be in force and shall cease to bind the land; and, in the case of land under the *Transfer of Land Act 1893*, the Registrar of Titles shall, at the instance of any person interested in the land, and on payment of the proper fee, enter on the certificate or other instrument of title a memorandum to that effect.

18. Charge and other rights not affected

An order for sale under which the land has not been sold shall not discharge the land from the charge, for the enforcement of which the order for sale was made, or take away from the CEO or the local authority in whose favour the order was made any right of the CEO or the local authority against the land including the right to apply for a fresh order for sale.

[Regulation 18 amended: Gazette 29 Dec 2006 p. 5910]

19. Conveyance or transfer

The clerk of the Local Court shall execute a proper conveyance or transfer of the land to the purchaser which shall convey or transfer to the purchaser (subject to registration under the *Transfer of Land Act 1893*) an estate in fee simple in the land, or (if such land has not been alienated from the Crown in fee simple) all the estate and interest therein of every person (other than the crown) and all the estate and interest which any such person is entitled or able to transfer, assign, convey or dispose of therein, and the estate of the purchaser shall be subject to the exceptions, conditions and powers (if any) contained in the grant or Crown lease or conditional purchase lease of the land and to any public rights of way and to any easements acquired by enjoyment or use or subsisting over and upon or affecting the land, and to any rates and taxes imposed or to be imposed on or in respect of the land after the date of the sale, and to any mortgage in favour of the Agricultural Bank,² but free from other encumbrances.

[Regulation 19 amended: Gazette 29 Dec 2006 p. 5908.]

20. Registration of transfer

The Registrar of Titles, in the case of land under the *Transfer of Land Act 1893*, upon production to him of any transfer as aforesaid shall register the same, and notwithstanding any statutory provision to the contrary, production of the certificate or other instrument of title shall not be required, but for the

purpose of registration the Registrar of Titles may if he thinks fit, make such orders and publish such advertisements as are provided for in the case of dealings with land when the certificate or other instrument of title is lost or not produced.

[Regulation 20 amended: Gazette 29 Dec 2006 p. 5909.]

Appendix

Forms

Form A

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

[Section 372]

Notice of Intention to Register Charge against Land and Premises

[Regulation 1 (1)]

To (a)
of (b)
(c)

Whereas the (d)..... has in pursuance and under the authority of
the provisions of Section (e) of the *Health (Miscellaneous
Provisions) Act 1911*, incurred expenses amounting to the sum of
..... dollars and cents upon or in connection
with or in relation to the land and premises situate at (f) and
being all that piece of land (g)

And whereas it appears upon search at the (h) that you are the
registered proprietor of the said land.

And whereas by virtue of the provisions of the said section of the said Act the
said expenses are declared to be a charge upon the said land.

Now therefore notice is hereby given that, after the expiration of three days
from the service of this notice upon you, application will be made under and in
accordance with the *Health (Miscellaneous Provisions) Act 1911* section 372,
and the regulations made thereunder for the registration of the said charge
against the said land.

Dated the day of 19

(i)

(a) Name of registered proprietor of land. (b) Address. (c) Occupation. (d) The CEO or the name of the local
authority as the case may require. (e) Insert number of section. (f) Insert place and street. (g) Insert description
of land as described in certificate or other instrument of title. (h) Office of the Western Australian Land
Information Authority. (i) Signature of Clerk to the CEO or Clerk or Secretary of the local authority.

*[Form A amended: Gazette 29 Dec 2006 p. 5909 and 5910;
10 Jan 2017 p. 302.]*

Form B

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

[Section 372]

Notice of Dispute by Registered proprietor of Land in relation to a
proposed application to Register Charge against such Land

[Regulation 1 (2)]

To (a)

Whereas I have received a notice dated the day of
..... 19, given under the regulations made under the said
Act that you intend to register in respect of the sum of dollars
and cents a charge against all that piece of land being

(b) Now therefore I
(c) of (d) in the State of
Western Australia (e) as the registered proprietor (or as the
lawful attorney or agent of the registered proprietor) of the said land, hereby
give you notice that I dispute your right to register such charge against the said
lands upon the following grounds, namely: —

(1) (f)

(2)

(3)

And I require that this dispute be referred for determination to a magistrate
under and in accordance with Section 372 of the said Act and the regulations
made thereunder.

Dated the day of 19

(g)

(a) The CEO or the name of the local authority. (b) Describe land as described in the certificate or other
instrument of title. (c) Name of registered proprietor or name of attorney or agent of registered proprietor, as
the case may require. (d) Address. (e) Occupation. (f) Insert grounds of dispute. (g) Signature of person giving
notice.

*[Form B amended: Gazette 29 Dec 2006 p. 5910; 10 Jan 2017
p. 302.]*

Form C

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

[Section 372]

**Application by CEO or a Local Authority for Registration of a Charge
against Land**

[Regulation 2 (1) and (6)]

To the (a)

The (b).....being entitled under and by virtue of Section

(c)of the *Health (Miscellaneous Provisions) Act 1911*, to a
charge for the amount of dollars and cents
as certified by the certificate under the hand of (d)

hereunto annexed, and dated the.....day of 19.....,
against all that piece of land standing in the name of (e)

.....of (f).....in the
State of Western Australia (g) and being

(h)

.....

.....

hereby make application for registration of the said charge for the said amount
against the said land.

Dated the day of 19

(i)

(a) Registrar of Titles or Registrar of Deeds and Transfers as the case may require. (b) The CEO or the name
of the local authority. (c) Insert number of section. (d) Clerk to the CEO or Clerk or Secretary of the local
authority as the case may be. (e) Name of registered proprietor of land. (f) Address. (g) Occupation. (h) Insert
description of land as described in certificate or instrument of title. (i) Signature of Clerk to CEO or Clerk or
Secretary of local authority.

*[Form C amended: Gazette 29 Dec 2006 p. 5909 and 5910;
10 Jan 2017 p. 303.]*

Form D

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

[Section 372]

Certificate of Amount of Charge and of Land to be charged to
Accompany Application for Registration of a Charge against Land

[Regulation 2 (2)]

To the (a)

I, the undersigned, being the Clerk to the CEO (or the clerk or secretary of the .
Local Health Authority),

hereby certify that the CEO (or the
Local Health Authority) has, under and by virtue of the authority conferred by
Section (b) of the *Health (Miscellaneous Provisions) Act 1911*, incurred
expenses

amounting to the sum ofdollars and cents
upon, or in connection with, or in relation to all that piece of land standing in
the name of (c).....
of (d) in the State of
Western Australia (e)..... and being (f).....

and that by virtue of the said section of the said Act the said expenses are a
charge against the said land and that the said (c)
..... is liable to pay the said amount of the said expenses and
that the sum ofdollars andcents payable in respect of
the said expenses is still unpaid.

Dated the day of 19

(g)

(a) Registrar of Titles or Registrar of Deeds and Transfers as the case may require. (b) Insert number of
section. (c) Name of registered proprietor of the land. (d) Address. (e) Occupation. (f) Insert description of
land as described in certificate or other instrument of title. (g) Signature of person giving the certificate.

*[Form D amended: Gazette 29 Dec 2006 p. 5909 and 5910;
10 Jan 2017 p. 303.]*

Form E

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

[Section 372]

Notice that a Charge has been Registered against Land

[Regulation 3 (2)]

To (a)
of (b)
(c).....

I, the undersigned, Registrar of Titles (or Registrar of Deeds and Transfers),
hereby give you notice that on the day of
.....19....., pursuant to the application of (d).....
.....
made under the *Health (Miscellaneous Provisions) Act 1911* section 372, and
the regulations made thereunder a charge for the amount of dollars and
..... cents
was registered as provided for by the said Act and the regulations against all
that piece of land standing in your name and being (e).....
.....

Dated the day of 19

(f)

(a) Name of registered proprietor of land. (b) Address. (c) Occupation. (d) The CEO or name of local
authority. (e) Insert description of land as described in certificate or other instrument of title. (f) Signature of
Registrar.

*[Form E amended: Gazette 29 Dec 2006 p. 5909 and 5910;
10 Jan 2017 p. 303.]*

Form F

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

[Section 372]

Reference to a Magistrate of a Dispute Concerning Right to Register
Charge against Land

[Regulation 4 (2)]

To His Worship Mr. (a)

In the Local Court held at

Notice is hereby given that a question or dispute has arisen between the CEO
(or the Local Health Authority)
of the one part and (b) of (c).....
in the State of Western Australia (d) as the registered
proprietor of all that piece of land being (e)

.....
of the other part, concerning the right of the said CEO (or the said Local Health
Authority) to have

registered against the said land under the provisions of the *Health
(Miscellaneous Provisions) Act 1911* section 372, and the regulations made
thereunder a charge for the amount of dollars and cents claimed by
the said CEO (or the said Local Health Authority) and
to which the said (b) objects and that in accordance with
the provisions of the said section of the said Act and the said regulations the
said (b) has requested that the question or dispute be
referred to you for the determination thereof.

The grounds of the objection by the said (b)
are those stated in a notice of dispute served by him upon the said CEO (or the
said Local Health
Authority) under and in accordance with the said regulations. Annexed hereto
are the following documents: —

- (1) Copy notice by the CEO (or the
Local Health Authority) of intention to apply for registration of the
said charge against the said land; and
- (2) Copy notice of dispute by the said (b)
in objection to the registration of such charge against the said land.

**Registration, Enforcement and Discharge of Local Authority Charges on
Land, Regulations
Appendix**

Dated the day of 19

(f)

(a) Name of magistrate. (b) Name of registered proprietor of land. (c) Address. (d) Occupation. (e) Insert description of land as described in certificate or other instrument of title. (f) Signature of Clerk to the CEO or Clerk or Secretary of the local authority.

*[Form F amended: Gazette 29 Dec 2006 p. 5910; 10 Jan 2017
p. 304.]*

Form G

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

[Section 372]

Certificate of Determination by a Magistrate of a dispute concerning
Registration of a Charge against Land

[Regulation 5]

To the (a)
Whereas the CEO (or the (b)
Local Health Authority) claiming that he (or it) had lawfully incurred expenses
in the sum of dollars and cents
under Section (c) ... of the *Health (Miscellaneous Provisions) Act 1911*, upon or
in connection
with or in relation to all that piece of land standing in the name of
(d) of (e) in the
State of Western Australia (f) and being (g)
and that by virtue of the said section the said sum is a charge upon the said land
duly gave notice under and in accordance with Section 372 of the said Act and
the regulations made thereunder to the said (d)
of his (or its) intention to apply for registration of the said charge against the
said land: And whereas the said (d) thereupon duly
served upon the said CEO (or the said
(b) local health authority) notice of dispute in
accordance with the said regulations and requested that the said dispute be
referred to a magistrate for determination as provided for in the said Section 372
of the said Act and the said regulations: Now therefore after reading the relevant
documents (and taking evidence and hearing argument on behalf of the said
parties to the said dispute, or the said (d) failing to
appear and support his dispute), I hereby certify as follows: —

- (1) That the said CEO (or the said (b)
.....Local Health Authority) has duly and lawfully
incurred expenses in the sum of dollars and
.....cents upon or in connection with or in relation
to all that piece of land standing in the name of (d)
of (e) in the State of Western Australia
(f) and being (g).....

**Registration, Enforcement and Discharge of Local Authority Charges on
Land, Regulations
Appendix**

(2) That under and by virtue of Section (c)..... of the
Health (Miscellaneous Provisions) Act 1911, the said sum is a charge
upon the said land.

(3) That the said (d)..... is liable to pay the said sum to
the said CEO (or to the said (b).....
Local Health Authority).

And I also certify that upon the hearing and determination of the said dispute I
ordered that the said (d).....do pay to the said CEO (or to the said (b)
..... Local Health
Authority) the sum of dollars and cents for
his (or its) costs of and incidental to the hearing and determination of the said
dispute.

Dated the day of 19

.....
Magistrate.

(a) Registrar of Titles or Registrar of Deeds and Transfers as the case may require. (b) Insert name of local
authority. (c) Insert number of section. (d) Name of registered proprietor of land. (e) Address. (f) Occupation.
(g) Insert description of land as described in certificate or other instrument of title.

*[Form G amended: Gazette 29 Dec 2006 p. 5909 and 5910;
10 Jan 2017 p. 304.]*

Form H

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

[Section 372]

Memorandum of Satisfaction of a Charge against Land

[Regulation 8]

The CEO (or the (a).....
Local Health Authority) being the person entitled to the benefit of the charge for
the sum of dollars and cents which by
virtue of the *Health (Miscellaneous Provisions) Act 1911* section 372, and the
regulations made thereunder was on the day of, 19....., registered
against

all that piece of land being (b).....
and numbered (c)....., doth hereby acknowledge and declare
that the whole of the moneys owing and payable under or in respect of or in
relation to the said charge have been completely paid, satisfied, and discharged,
and that the said CEO (or the said (a).....
Local Health Authority) no longer has any claim against the said land under the
said charge and that the said land may be discharged from the said charge.

As witness my hand hereto set this day of, 19.....

(d)

(a) Name of local authority. (b) Description of land as described in certificate or other instrument of title. (c)
Insert register number of charge. (d) Signature of Clerk to the CEO or Clerk or Secretary of local authority.

*[Form H amended: Gazette 29 Dec 2006 p. 5910; 10 Jan 2017
p. 304.]*

Form I

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

[Section 372]

Application to discharge a charge registered against land

[Regulation 9]

To the (a)
I (b), of (c), in the State
of Western Australia, (d), being the registered proprietor
(or being the (e) of (f) of (g)
in the State of Western Australia, (h), the registered proprietor
of all that piece of land being (i)
against which a charge for the sum of dollars and
cents in favour of the CEO (or the (j)
Local Health Authority) was under and by virtue of the *Health (Miscellaneous
Provisions) Act 1911* section 372, and the regulations made thereunder
registered and numbered (k)
..... hereby make application for the discharge of the said charge
from the said land pursuant to the memorandum of satisfaction dated the
..... day of 19 annexed hereto.
Dated the day of 19
(l)

(a) Registrar of Titles, or Registrar of Deeds and Transfers as the case may be. (b) Name of applicant. (c)
Address. (d) Occupation. (e) Attorney or agent. (f) Name of registered proprietor of land. (g) Address. (h)
Occupation. (i) Description of land as described in certificate or other instrument of title. (j) Name of local
authority. (k) Insert register number of charge. (l) Signature of applicant.

*[Form I amended: Gazette 29 Dec 2006 p. 5909 and 5910;
10 Jan 2017 p. 305.]*

Form J

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

[Section 372]

Notice of intention to apply for order for sale to enforce charge registered
against land

[Regulation 10]

The CEO (or the (a).....Local
Health Authority)
to

(b)

Whereas all that piece of land standing in the name of (c).....
of (d)..... in the State of Western Australia, (e).....
and being the (f).....
is under and by virtue of the provisions of the *Health (Miscellaneous
Provisions) Act 1911*, charged with the payment of the sum
of.....dollars and cents to the
CEO (or the (a)..... Local
Health Authority) under a charge registered against the said land on the
.....day of..... 19..... and numbered (g).....
And whereas the said sum of.....dollars andcents still
remains unpaid: Now therefore notice is hereby given that unless the amount so
due be paid within three months after the giving of this notice application will
be made by the said CEO (or the said (a).....
Local Health Authority) under the said Act and the regulations made thereunder
to the magistrate exercising jurisdiction in the Local Court held at (h)
for an order for sale of the said land in accordance with the said Act and
regulations.

Dated the day of 19

(i)

(a) Insert name of local authority. (b) In the copy to be published in the *Government Gazette* insert the words
“All persons having any estate or interest in the land hereinafter mentioned,” and in the copy to be served
upon each person appearing to have any estate or interest in the land insert the name, address, and occupation
of such person. (c) Name of registered proprietor of land. (d) Address. (e) Occupation. (f) Description of land
as described in certificate or other instrument of title. (g) Insert register number of charge. (h) Place where
local court is held. (i) Signature of Clerk to the CEO or Clerk or Secretary of local authority.

*[Form J amended: Gazette 29 Dec 2006 p. 5910-11; 10 Jan 2017
p. 305.]*

Form K

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

[Section 372]

Application to Magistrate for an Order for Sale to Enforce Charge
Registered against land

[Regulation 10 (d)]

In the Local Court at.....

In the matter of the *Health (Miscellaneous Provisions) Act 1911*, and in the
matter of an application by the CEO (or the (a) Local
Health Authority) for an order for sale of land.

To His Worship the Magistrate.

The CEO (or the (a) Local
Health Authority) hereby makes application for an order for sale under and in
accordance with the *Health (Miscellaneous Provisions) Act 1911* section 372,
and the regulations made thereunder, of all that piece of land standing in the
name of (b)
of (c)in the State of Western Australia (d).....
and being (e).....

.....
for the purpose of enforcing a charge against the said land under which is owing
and payable the sum of.....dollars and.....cents
to the said CEO (or the said (a)
Local Health Authority). The grounds upon which this application is made are
as follows: —

- (1) A charge for the sum of.....dollars and.....cents
was on the.....day of.....19.....
duly registered against the said land under and in accordance with the
Health (Miscellaneous Provisions) Act 1911 section 372, and the
regulations made thereunder and numbered (f).....
- (2) The sum of.....dollars and.....cents still
remains due and unpaid under the said charge.
- (3) Notice of intention to make this application was duly published in the
Government Gazette on the.....day of.....
19.....and also was duly served on (g)

.....
as being the persons who upon search at the Office of the Western
Australian Land Information Authority appear to have any estate or
interest in the said land.

- (4) Three months have expired since the publication or service as aforesaid
of the said notice.
- (5) The amount aforesaid payable under the said charge is still, at the date
of making this application, unpaid.

The said applicant also makes application for an order for payment of the fees
and costs of the applicant of and incidental to this application to be fixed by
your Worship and to be recovered by the sale of the said land under the order
for sale aforesaid.

Dated the day of 19

(h)

(a) Insert name of local authority. (b) Name of registered proprietor of land. (c) Address. (d) Occupation. (e)
Description of land as described in certificate or other instrument of title. (f) Insert register number of charge.
(g) Insert here the names, addresses and occupations. (h) Signature of Clerk to the CEO or the Clerk or
Secretary of the local authority.

*[Form K amended: Gazette 29 Dec 2006 p. 5909-11; 10 Jan 2017
p. 305-6.]*

Form L

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

[Section 372]

Certificate of amount owing under charge registered against

Land to accompany application to a Magistrate for an order for Sale

[Regulation 10 (d) (iii)]

To His Worship the Magistrate,

Local Court at

I the undersigned, the clerk to the CEO (or the clerk or secretary of (a)..... Local Health Authority) hereby

certify that, at the time of signing this certificate, the sum of dollars and cents is due owing and unpaid to the said CEO (or the said (a)..... Local Health Authority) under or in relation to the charge which on the.....day of....., 19....., was under and in accordance with the *Health (Miscellaneous Provisions) Act 1911* section 372, and the regulations made thereunder registered against all that piece of land being (b).....and numbered (c).....

and that the said amount is made up as follows: —

(a) Amount of charge	\$
(b) Fees paid for registration of charge.....	\$
Less X amount paid on account	\$
Balance due	\$

Dated the day of 19

(d)

(a) Insert name of local authority. (b) Description of land as described in certificate or other instrument of title.
(c) Insert register number of charge. (d) Signature of Clerk to the CEO or the Clerk or Secretary of the local authority.

[Form L amended: Gazette 29 Dec 2006 p. 5910-11; 10 Jan 2017 p. 306.]

Form M

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

[Section 372]

Order for Sale of Land under Registered Charge

[Regulation 10 (d) (iv)]

In the Local Court at
In the matter of the *Health (Miscellaneous Provisions) Act 1911*, and in the
matter of an application by the CEO (or the (a) Local
Health Authority) for an order for sale of land.
The CEO (or the (a) Local
Health Authority) having on the day of, 19.....,
made application to me, the magistrate exercising jurisdiction in the
above-mentioned Local Court, for an order for sale of all that piece of land
being (b) under and in accordance with the *Health
(Miscellaneous Provisions) Act 1911* section 372, and the regulations
thereunder for the purpose of enforcing a charge registered against the said land
under the said Act and regulations on the
day of, 19....., and numbered (c)
in favour of the said CEO (or the said (a)
Local Health Authority) for the sum of dollars and cents,
and having satisfied me that the said charge is duly registered against the said
land and that the sum of dollars and cents is still
owing and unpaid, and that the requirements of the said Act and regulations in
relation to the making of the said application have been duly complied with, it is
hereby ordered that the said land namely all that piece of land being (b)
be sold by the bailiff of the Local Court held at
but so that such sale shall be conducted in accordance with the regulations
relating thereto made under the *Health (Miscellaneous Provisions) Act 1911*,
and that the amount to be paid to the said CEO (or the said (a)
Local Health Authority) out of the proceeds arising from the sale of the said
land in pursuance of this order in satisfaction of the said charge against the said
land shall be the sum of dollars and cents being
the amount of the said charge together with the sum of dollars
and cents being the fees and charges incurred in connection with the
registration of the said charge and together also with the further sum of
dollars and cents being the fees and charges paid and incurred by the

**Registration, Enforcement and Discharge of Local Authority Charges on
Land, Regulations
Appendix**

said CEO (or the said (a)Local Health
Authority) in connection with the said application and the obtaining of this
order.

As witness my hand hereto set this.....day of....., 19.....

(d)

Magistrate.

(a) Insert name of local authority. (b) Description of land as described in certificate or other instrument of title.
(c) Insert register of charge. (d) Signature of Magistrate.

*[Form M amended: Gazette 29 Dec 2006 p. 5910; 10 Jan 2017
p. 306.]*

Notes

- ^{1.} This is a compilation of the *Registration, Enforcement and Discharge of Local Authority Charges on Land, Regulations* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Citation	Gazettal	Commencement
<i>Registration, Enforcement and Discharge of Local Authority Charges on Land, Regulations</i>	23 Jul 1937 p. 1178-88	23 Jul 1937
<i>Registration, Enforcement and Discharge of Local Authority Charges on Land Amendment Regulations 2006</i>	29 Dec 2006 p. 5905-11	1 Jan 2007 (see r. 2 and <i>Gazette</i> 8 Dec 2006 p. 5369)
<i>Health Regulations Amendment (Public Health) Regulations 2016</i> Pt. 32	10 Jan 2017 p. 237-308	24 Jan 2017 (see r. 2(b) and <i>Gazette</i> 10 Jan 2017 p. 165)

- ² Now Rural and Industries Bank.

- ³ Now section 99, *Trustees Act 1962*.